IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

CRP.No. 514 of 2007()

AGAINST THE ORDER DATED 24/05/2007 IN EP.293/2006 IN OS.567/2003 of MUNSIFF COURT, PARAVUR

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REVN. PETITIONER/ JUDGMENT DEBTOR:

HARI, S/O. VIJAYAN,
KUDILIL, PARAVEETHARA MURI, PARAVUR VILLAGE,
PARAVUR TALUK.

BY ADV. SRI.T.A.SHAJI
SMT.T.V.NEEMA

RESPONDENT/ DECREE HOLDER:

CHANDRASEKHARA MENON,
S/O. PARAMESWARA MENON, 'JAYASREE',
PERUVAROM KARA, PARAVUR VILLAGE, PARAVUR TALUK.

BY ADV. SRI.S.SHYAM

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP.No. 514 of 2007

ORDER ON I.A.NO.1298/07 IN C.R.P.NO.514/2007

DISMISSED.

6.7.2007 SD/- M.N.KRISHNAN, JUDGE.

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BKN // TRUE COPY//

P.A. TO JUDGE.

M.N.KRISHNAN, J

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C.R.P.NO. 514 OF 2007 (D)

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Dated this the 6th Day of July, 2007.

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O R D E R

This revision petition is preferred against the order in E.P.293/06 in O.S.No.567/03, on the file of Munsiff court, North Paravur. Execution petition is for realisation of the amount by arresting the judgment debtor and detaining him in civil prison. The decree holder came before the court and deposed that the judgment debtor is having business and he is deriving an income of Rs.30,000/- per month from the business and an income of Rs.2,000/- from the land and property. The respondent/judgment debtor entered appearance and denied the entire thing. The court itself states that there is no documentary evidence to support these things. Though there may not be direct evidence to prove the actual income derived but the factum of business alleged to be conducted can be proved by evidence. There are provisions under Order 21 Rule 41(2) whereby the decree holder can request the court to call for an affidavit from the judgment debtor about his means. Even for

that no steps is seen taken. Without resorting to these matters by merely deposing that a person is having large income will not be sufficient to send a person to prison. Therefore without going much into the details, I am inclined to set aside the order passed by the court below. I think that the learned Munsiff should give the decree holder time to produce document before the executing court to prove the means of the judgment debtor. Therefore the order under challenge is set aside and the matter is remitted back to the executing court for a fresh disposal. Both parties are given opportunity to adduce further evidence in support of their respective contentions. Parties are directed to appear before the court below on 1.8.07 and court below is directed to dispose of the same within a period of two months.

The civil revision petition is disposed of accordingly.

M.N.KRISHNAN
JUDGE

bkn